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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**AVENUE LOFTS CONDOMINIUMS
OWNERS' ASSOCIATION**, an Oregon
nonprofit corporation,

Case No. 3:13-cv-01066-BR

Plaintiff,

v.

VICTAULIC COMPANY, a foreign
corporation,

Defendant.

Plaintiff Avenue Lofts Condominiums
Owners' Association's

**MEMORANDUM IN SUPPORT OF
MOTION TO EXTEND ALL
DISCOVERY AND PRETRIAL
DEADLINES AND SET TRIAL DATE**

(Oral Argument Waived)

VICTAULIC COMPANY, a foreign
corporation,

Third-Party Plaintiff,

v.

SEAL DYNAMICS, a Florida corporation;
and **F&S DISTRIBUTORS, INC.**, a New
Jersey corporation,

Third-Party Defendants.

Page 1 – MEMORANDUM IN SUPPORT OF MOTION TO EXTEND ALL DISCOVERY
AND PRETRIAL DEADLINES AND SET TRIAL DATE

Plaintiff Avenue Lofts Condominiums Owners' Association, an Oregon nonprofit corporation (hereinafter "Plaintiff") hereby submits this memorandum in support of its request that the Court extend the deadlines established by the Court's Discovery and Pretrial Scheduling Order dated June 25, 2013 [D.E. 4].

Under Federal Rule of Civil Procedure 16, "[a] schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "[O]bjections to any court imposed deadline must be raised by motion and must: (1) Show good cause why the deadlines should be modified[,] (2) Show effective prior use of time[,] (3) Recommend a new date for the deadline in question [, and] (4) Show the impact of the proposed extension upon other existing deadlines, settings, or schedules." Local Rule 16-3(a). Good cause exists for modifying the schedule in this case.

On June 25, 2013, Plaintiff filed an action against Defendant Victaulic Company (hereinafter "Victaulic"). On July 23, 2013, Defendant Victaulic Company filed a Third-Party Complaint against Third-Party Defendants Seal Dynamics and F&S Distributors, Inc. On July 31, 2013, counsel for Plaintiff, Defendant and Third-Party Defendants participated in a conference call as required by Fed. R. Civ. P. 26(f). The parties agreed to a proposed trial date of September 15, 2014 anticipating a two (2) week jury trial. Based on that date, the parties agreed to the following schedule:

- a. Fed. R. Civ. P. 26(a)(1) Initial Disclosures due from all parties: **August 14, 2013**
- b. Fact discovery cut off: **March 19, 2014**
- c. Expert disclosures under Fed. R. Civ. P. 26(b)(2): **March 19, 2014**
- d. Disclosure of Rebuttal Experts: **April 21, 2014**
- e. Close of expert discovery: **May 23, 2014**

- f. File dispositive motions: **June 27, 2014**
- g. File Joint ADR Report, Proposed Pretrial Order and Joint Status Report: **30 days after resolution of dispositive motions**
- h. Pretrial Conference: **September 5, 2014**
- i. Jury Trial (two weeks): **September 15, 2014**

Because this litigation involves a complex product defect, substantial discovery remains to be completed including written discovery, site inspections and depositions. This is the first request for an extension of deadlines, and this motion is not made for purposes of undue delay. The parties believe that they will be able to coordinate and complete all necessary discovery within the timelines outlined above, and respectfully request that the Court grant this motion.

Respectfully submitted on this 16th day of August, 2013.

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 16th day of August, 2013, I served the foregoing
3 **MEMORANDUM IN SUPPORT OF MOTION TO EXTEND ALL DISCOVERY AND**
4 **PRETRIAL DEADLINES AND SET TRIAL DATE** on the following individual(s):

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